

HOUSE BILL REPORT

HB 1748

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to flood protection.

Brief Description: Regarding hydraulic project permit approval for projects intended to reduce or eliminate damage from floods.

Sponsors: Representatives B. Sullivan, Curtis and Pearson.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/5/07, 2/21/07 [DPS].

Brief Summary of Substitute Bill

- Provides a mechanism for counties to declare when a chronic flooding danger exists.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives B. Sullivan, Chair; Blake, Vice Chair; Kretz, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Dickerson, Eickmeyer, Grant, Hailey, Kagi, Lantz, McCoy, Newhouse, Orcutt, Strow and VanDeWege.

Staff: Jason Callahan (786-7117).

Background:

A hydraulic project approval (HPA) is required for any project that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state. All HPAs are issued by the Washington Department of Fish and Wildlife (WDFW) to ensure the proper protection of fish life.

The WDFW has the authority to issue expedited permits in cases of imminent danger for work to repair existing structures, move obstructions, restore banks, protect property, or protect fish resources. Imminent danger includes threats by weather, water flow, or other natural

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conditions that are likely to occur within 60 days of a request of a permit. Either the WDFW or the county legislative authority may determine if an imminent danger exists.

In emergencies arising from weather or stream flow conditions, the WDFW must issue, upon request, oral approval for removing any obstructions, repairing existing structures, restoring stream banks, or protecting property threatened by the stream, without the necessity of a person obtaining a written approval prior to commencing work. An emergency means an immediate threat to life, the public, property, or environmental degradation.

Summary of Substitute Bill:

A county is required to declare that a chronic danger exists for a particular property not located on a marine shoreline if that property has experienced at least two consecutive years of flooding or erosion that causes a threat to a property or its infrastructure. If a chronic danger is declared, then the WDFW must issue an approval under the HPA program to remove obstructions, restore banks and roads, repair structures, and protect property and fish resources.

Substitute Bill Compared to Original Bill:

The original bill required the WDFW to give equal consideration to protecting public safety, private property, and fish life when reviewing applications for a hydraulic project approval that is intended to protect against flooding, required the WDFW to issue expedited written permits if a county found that a chronic flooding danger exists, and prohibited the conditioning of an approved permit on compliance with the State Environmental Policy Act (SEPA).

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) The loss of farms, houses, and other property to flood damage is not theoretical. It is happening today, and it is frustrating and difficult to receive the permits necessary to protect against the damage. Even emergency permits can get hung up in red tape. Average citizens do not know what an HPA is, or where they need to go to get one. Just the specter of having to get an HPA, and the clout that the program gives the WDFW, causes a hesitation among citizens and local government to do important flood control work. Requiring a SEPA review of actions is not an element of other emergency response actions.

Flooding is not just a problem in the lowlands. There has been historic flooding in recent years on all segments of the state's rivers. The protection of human safety and property should be elevated to the same level that is given to the protection of fish. People are fish, too.

Preparing rivers for floods not only reduces damage to private property, it also protects the river against siltation and protects aquatic habitat. Once a river is altered by man, such as with a dam, relying on traditional fish habitat protection science no longer works. There should be a cost/benefit analysis associated with fish protection.

(Opposed) The hydraulic and permitting problems associated with flooding are complex and are most successfully handled when all parties work together. Homes, property, and tax money could be saved if development was discouraged in floodplains. Existing homes should be encouraged to take actions such as soft armoring and ground water management that has a lesser effect on the habitat in the waterbody.

Counties should not be required to declare that a chronic condition exists. Instead, their authority to make such a declaration should be optional.

Bypassing a SEPA review is not a good step to take, and SEPA waivers should not be given without strong reason. The HPA program exists to protect fish, and that intent should not be corrupted.

Persons Testifying: (In support) Jerry Ayres; Jack Field, Washington Cattlemen's Association; Lee Grose, Lewis County Commissioner; Dan Wood, Washington Farm Bureau; Lisa Dilley, Grays Harbor and Pacific County Farm Bureau and Olympic View Dairy; Keith Farrens, Walla Walla County Farm Bureau; Roger Finley, Snohomish County Farm Bureau; Ken Sletten, Okanogan Farm Bureau; and Steve Hammond, Citizens Alliance for Property Rights.

(Opposed) Greg Hueckel, Washington Department of Fish and Wildlife; Bruce Wishert, People for Puget Sound; and Steve Robinson, Northwest Indian Fisheries Commission.

Persons Signed In To Testify But Not Testifying: Chris Cheney, Washington State Dairy Federation and Washington Fryer Commission.